



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 6, 1998

Ms. Marva M. Gay
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002-1700

OR98-2367

Dear Ms. Gay:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 118367.

The Harris County Medical Examiner (the "medical examiner") received requests for autopsy reports on three individuals. The requests also seek any investigation documents relating to the autopsies. You contend that the autopsy reports, which include toxicology reports, are excepted from disclosure under sections 552.101, 552.108, and 552.201 of the Government Code. You state that the medical examiner does not possess any investigation documents relating to the autopsies.

The medical examiner performed the autopsies at the request of Montgomery County Justices of the Peace. You cite section 552.201(b) of the Government Code and contend that the medical examiner is not the proper custodian of the autopsy reports and should not be required to respond to the requests for the reports.¹ We note, however, that section 552.002 of the Government Code defines public information as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." The autopsy reports at issue were created and are maintained by the medical examiner in connection with his

¹Gov't Code section 552.201(b) provides as follows:

Each elected county officer is the officer for public information and the custodian, as defined by Section 201.003, Local Government Code, of the information created or received by that county officer's office.

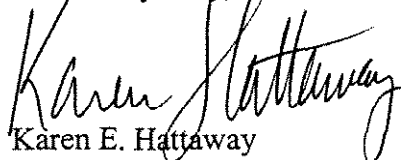
official duties. Therefore, we find that the autopsy reports are subject to the act in the hands of the medical examiner.

You also contend that the autopsy reports may be excepted from disclosure under section 552.101 of the Government Code in the event that they are the subject of protective orders or other law makes them confidential.² We are not aware of any court orders or statutes that would make the autopsy reports confidential. Therefore, we find that the autopsy reports are not excepted from disclosure under section 552.101.³

Finally, you contend that section 552.108 excepts two of the autopsy reports from disclosure. The act's exceptions do not, as a general rule, apply to information made public by other statutes. Open Records Decision No. 525 (1989). Section 11 of article 49.25 of the Code of Criminal Procedure makes autopsy reports, including the full reports and detailed findings, open to the public. Open Records Decision No. 529 (1989). This provision applies to an autopsy performed by a medical examiner at the request of a justice of the peace. Open Records Decision No. 21 (1974). Thus, we conclude that the requested autopsy reports must be publicly disclosed in accordance with section 11 of article 49.25 of the Code of Criminal Procedure.⁴

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

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²Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision.

³If you determine that the autopsy reports are the subject of a court order, then, of course, the court order would govern the release of the autopsy reports.

⁴We note that photographs taken during a post mortem examination must be made public pursuant to section 11 of article 49.25 of the Code of Criminal Procedure.

Enclosures: Submitted documents

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